

**FEDERAL ELECTION COMMISSION**  
**FIRST GENERAL COUNSEL'S REPORT**

**MUR 7103**

DATE COMPLAINT FILED: July 8, 2016

DATE OF NOTIFICATION: July 15, 2016

LAST RESPONSE RECEIVED: N/A

DATE ACTIVATED: Feb. 24, 2017

EXPIRATION OF SOL: June 21, 2021

ELECTION CYCLE: 2016

**COMPLAINANT:**

Nia Robinson

**RESPONDENTS:**

Stronger Together NYC and Grant Lincoln in his  
official capacity as treasurer

**RELEVANT STATUTE  
AND REGULATION:**

52 U.S.C. § 30104  
11 C.F.R. § 104.4(c)

**INTERNAL REPORT  
CHECKED:**

Disclosure Report

**AGENCIES CHECKED:**

None

**I. INTRODUCTION**

Complainant alleges that Stronger Together NYC, an independent expenditure only political committee, and Grant Lincoln in his official capacity as treasurer (the "Committee"), failed to report independent expenditures in support of Adriano Espaillat, a candidate in the 2016 Democratic primary election in New York's 13<sup>th</sup> Congressional District, in violation of the Federal Election Campaign Act of 1971, as amended (the "Act").<sup>1</sup> Because the available information does not show that the Committee made the independent expenditures in support of Espaillat that are the subject of the Complaint, we recommend that the Commission dismiss the allegation and close the file.

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<sup>1</sup> Compl. at 1.

**II. FACTUAL BACKGROUND**

On June 25, 2016, Politico published an article that re-printed a memo dated June 21, 2016 (one week before the June 28 New York Democratic primary), authored by Chad Proudlock, the self-described “co-founder” of the Committee. The memo outlined various scenarios in which Espaillat could win his Congressional primary, set forth a planned course of action to help Espaillat win, and solicited funds to implement the plan.<sup>2</sup> The memo purported to attach “2 negative and 1 contrast mail piece examples, as well as a line-item budget for the mail and GOTV;” however, those attachments were not re-printed in the article, and we have not been able to independently locate them. The memo further outlined a victory scenario for Espaillat if he “prevents or suppresses the White Progressive and African American vote for [Espaillat’s primary opponent] by 5% points of these combined voter groups, or roughly 2000 votes.”<sup>3</sup> The memo concluded by recommending “micro-targeted Direct Mail and persuasion dials (using contrast messaging) communicated to White Progressives and African American voters in AD 68, 69 and 70, presenting a dissuasive message to suppress turnout for these specific groups...” and an on-the-ground field operation that the Committee had purportedly already staffed with “40 + college kids.”<sup>4</sup> It appears that the Committee disseminated the memo via email.<sup>5</sup>

<sup>2</sup> See Compl. at 2-3; A. Playbarah, *Wright, Sharpton Say There Is a Plot to Suppress the Black Vote in the Rangel Race*, POLITICO, June 25, 2016, <http://www.politico.com/states/new-york/city-hall/story/2016/06/wright-sharpton-say-there-is-a-plot-to-suppress-the-black-vote-in-rangel-race-103272>.

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> The memo starts with “Sent: Tuesday, June 21, 2016 12:01 PM,” and the Politico article quotes an Espaillat spokesman that “denounces this email.” *Id.* It is not evident to whom the memo is addressed; however, it appears to be directed to employees of one or more corporate entities as it states: “We would like for you and your CEO to examine the materials at your convenience and try to connect later this afternoon around 4:00pm EST to answer any questions you have as to why Stronger Together NYC’s negative pieces and GOTV program is essential to putting Sen. Espaillat over the top on June 28th.” *Id.*

1 Complainant alleges that the Committee failed to report independent expenditures for the  
2 activities outlined in the memo as well as for the Committee's website.<sup>6</sup> Complainant, however,  
3 does not identify any independent expenditures that the Committee actually made as outlined in  
4 the June 21 memo, nor does it provide any screenshots of the website, which is no longer  
5 available.<sup>7</sup>

6 The only disclosure report the Committee filed with the Commission is a 2016 July  
7 Quarterly Report covering activity from April 1, 2016 through June 30, 2016, which includes the  
8 time period leading up to and including the Democratic primary election in New York. In that  
9 report, the Committee disclosed \$6,000 in contributions from two other political committees and  
10 \$5,000 in disbursements to F-3 Solutions – a company owned by Chad Proudlock – for  
11 “Consulting/Set-up Fees.”<sup>8</sup> Additionally, the Committee disclosed approximately \$16,600 in  
12 debt owed to F-3 Solutions for legal counsel, Spokeo donor research tool, poll, website, email  
13 list cleaning, data validation, email delivery, and automated calls.<sup>9</sup> In response to the  
14 Committee's failure to file subsequent disclosure reports, the Commission's Reports Analysis  
15 Division (“RAD”) sent “RFAI – Failure to File” notices to the Committee, which have gone  
16 unanswered.<sup>10</sup>

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<sup>6</sup> Compl. at 3-4.

<sup>7</sup> We have been unable to locate any current or archived version of the Committee's website.

<sup>8</sup> See Stronger Together NYC 2016 July Quarterly Report at 7 (July 15, 2016); *It's the Future of Marketing*, <https://itsthefuturemarketing.wordpress.com/2016/06/30/f-3-solutions/> (last accessed April 14, 2017). Like the Committee, F-3 Solutions has little current or archived internet presence. F-3 Solutions is not registered to do business in New York. See New York Department of State, Division of Corporations, Business Entity Search, [https://www.dos.ny.gov/corps/bus\\_entity\\_search.html](https://www.dos.ny.gov/corps/bus_entity_search.html).

<sup>9</sup> Stronger Together NYC 2016 July Quarterly Report at 8-10.

<sup>10</sup> See RFAI – Failure to File – October Quarterly, Stronger Together NYC (Oct. 31, 2016); RFAI – Failure to File – Post-General, Stronger Together NYC (Dec. 28, 2016); RFAI – Failure to File – Year-End, Stronger Together

1 The Committee did not file a response to the Complaint. However, Proudlock reportedly  
2 stated that the Committee did not raise enough money to do anything other than a “robust”  
3 digital campaign and a planned get-out-the-vote effort.<sup>11</sup>

### 4 III. LEGAL ANALYSIS

5 The Act requires committee treasurers to file reports of receipts and disbursements in  
6 accordance with the provisions of 52 U.S.C § 30104(b).<sup>12</sup> Reports shall include independent  
7 expenditures made by political committees other than authorized committees.<sup>13</sup> Every political  
8 committee that makes independent expenditures must report them in its regularly scheduled  
9 disclosure reports in accordance with 11 C.F.R. § 104.3(b)(3)(vii).<sup>14</sup> In addition, political  
10 committees that make independent expenditures aggregating \$1,000 or more with respect to a  
11 given election after the 20<sup>th</sup> day, but more than 24 hours before the date of that election, must  
12 disclose them within 24 hours following the date of dissemination.<sup>15</sup> The committee must file

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NYC (Feb. 16, 2017). The Committee does not meet monetary thresholds for further action by RAD and will be eligible for administrative termination once this matter has been resolved.

<sup>11</sup> See Kenneth Lovett, *Sen. Adriano Espaillat Super PAC Suggests Voter Suppression*, NEW YORK DAILY NEWS, June 26, 2016, <https://www.pressreader.com/usa/new-york-daily-news/20160626/281487865653330>.

<sup>12</sup> 52 U.S.C. § 30104(a)(1).

<sup>13</sup> 52 U.S.C. § 30104(b)(4)(H)(iii); 11 C.F.R. § 104.3(b)(1)(vii).

<sup>14</sup> 11 C.F.R. § 104.4(a). Such a political committee must disclose on Schedule E the name of a person who receives any disbursement during the reporting period in an aggregate amount or value in excess of \$200 within the calendar year in connection with an independent expenditure by the reporting committee. The report also must disclose the date, amount, and purpose of any such independent expenditure and include a statement that indicates whether such independent expenditure is in support of or in opposition to a candidate, as well as the name and office sought by such candidate. Independent expenditures of \$200 or less do not need to be itemized, though the committee must report the total of those expenditures on line (b) of Schedule E. *Id.*

<sup>15</sup> 52 U.S.C. § 30104(g)(1); 11 C.F.R. § 104.4(c).

1 additional reports within 24 hours of each time it makes or contracts to make independent  
2 expenditures aggregating an additional \$1,000.<sup>16</sup>

3 Although the Committee's June 21 memo identifies an activity plan that, if carried out,  
4 likely would have triggered independent expenditure reporting requirements, the available record  
5 lacks information as to whether the Committee actually made independent expenditures as  
6 outlined in the memo. There is no indication whether the modest disbursements and debt owed  
7 to F-3 Solutions disclosed in the Committee's July Quarterly Report constitute reportable  
8 independent expenditures. Indeed, Proudlock reportedly stated that the Committee did not raise  
9 enough money to do anything other than a "robust" digital campaign and a planned get-out-the-  
10 vote effort in the district on election day.<sup>17</sup> Given the apparently low level of spending by the  
11 Committee (\$5,000 in disbursements and \$16,600 in debt), investigating whether it should have  
12 filed separate independent expenditure reports for any of its activity or pursuing its failure to  
13 continue filing disclosure reports does not warrant the use of Commission resources.<sup>18</sup>  
14 Therefore, we recommend that the Commission dismiss the allegations that the Committee

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<sup>16</sup> 11 C.F.R. § 104.4(c).

<sup>17</sup> Kenneth Lovett, *supra* note 11.

<sup>18</sup> See *supra* note 10; see, e.g., Factual and Legal Analysis at 6-7, MUR 6717 (DNC) (Commission dismissed the alleged failure to report a small amount of independent expenditures). In addition, although not alleged as a violation in the Complaint, it is not clear whether the Committee's email of the memo contained the proper disclaimer. The copy of the memo in the Politico article did not contain a disclaimer. A press article reported that the email contained a disclaimer that by federal law there is no coordination between the Committee and the Espaillat campaign. See Kenneth Lovett, *supra* note 11. The Act and Commission regulations require disclaimers regarding payment and candidate authorization for electronic mail of more than 500 substantially similar communications when sent by a political committee. 52 U.S.C. § 30120(a); 11 C.F.R. § 110.11(a), (b). Here, even if the Committee's email did not contain the proper disclaimer, the memo as copied in the Politico article, ends with Proudlock's name and his position with Stronger Together NYC. See MUR 6785 (Kwasman for Congress) (dismissing allegation because campaign materials at issue contained partial disclaimer identifying the payor); MUR 6278 (Committee to Elect Joyce B. Segers for Congress) (dismissing allegations that campaign websites and flyers lacked requisite disclaimers where partial payor information in the form of contact information was included). Under these circumstances, we make no recommendation as to the disclaimer.

violated 52 U.S.C. § 30104 and 11 C.F.R. § 104.4(c) by failing to report independent expenditures, and close the file.

#### IV. RECOMMENDATIONS

1. Dismiss the allegations that Stronger Together NYC and Grant Lincoln in his official capacity as treasurer violated 52 U.S.C. § 30104 and 11 C.F.R. § 104.4(c);
2. Approve the attached Factual and Legal Analysis;
3. Approve the appropriate letters; and
4. Close the file.

Lisa J. Stevenson  
Acting General Counsel

5/24/17  
DATE

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